

CECW-E

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U.S. Army Corps of Engineers  
Washington, DC 20314-1000

ETL 1110-1- 502

Technical Letter  
No. 1110-1-502

1 October 2003

Expires 30 September 2008  
Engineering and Design  
SECURITY PLANNING AND TRAINING REQUIREMENTS  
FOR HAZARDOUS MATERIALS SHIPMENTS

1. Purpose. This letter transmits guidance to ensure that USACE engineering and construction offices that are responsible for transporting hazardous materials (HAZMAT) or procuring contracts to transport HAZMAT are aware of regulatory requirements issued 25 March 2003 by the Research and Special Programs Administration (RSPA) of the Department of Transportation (DOT).

2. Applicability. This letter applies to HQUSACE/OCE element, major subordinate commands, district, laboratories, and field operating activities (FOA) who transport, offer for transportation, or procure contracts to transport certain DOT regulated HAZMAT offsite. This includes, but is not limited to, HTRW investigation, design and remedial action projects within the military or civil works programs, civil works operations, disposal through the Defense Reutilization and Marketing Service, and environmental quality project support to military installations.

3. Distribution. Approved for public release; distribution is unlimited.

4. References. Documents referenced in this ETL are listed below.

- a. 68 Federal Register 14510, March 25, 2003 regulatory requirements
- b. 49 CFR Subchapter C, DOT HAZMAT regulations
- c. 49 CFR 172, Subpart I, requirements for security plans
- d. 49 CFR 172.704 requirements for security training
- e. 49 CFR 172, Subpart H security awareness training for USACE HAZMAT employees
- f. DoD Instruction 4500.9-R, Chapter 205, paragraph X, May 2003,

5. Discussion.

a. Background. As a result of the terrorist attacks of September 11, 2001, and subsequent threats related to biological and other hazardous materials (HAZMAT), the Research and Special Programs Administration (RSPA) of the Department of Transportation (DOT) performed a broad review of government and industry hazardous materials transportation safety and security programs and concluded that enhanced security measures were necessary to protect the security of hazardous materials (HAZMAT) transported in commerce. On March 25, 2003,

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the RSPA issued a final rule that requires certain shippers and carriers to develop and implement security plans that address personnel application controls, protection from access to HAZMAT by unauthorized persons, and en route security during transportation. The security plan is applicable to those persons who offer for transportation or transport one or more of seven categories of HAZMAT as identified below. This ruling requires a security plan to be in place by 25 September 2003. This ETL 1110-1-502 requires applicable USACE offices to have a security plan in place as soon as practicable following publication of this ETL. Appendix A is a Fact Sheet that presents a summary of the DOT ruling.

(1) A highway route-controlled quantity of a Class 7 (radioactive) material in a motor vehicle, rail car, or freight container;

(2) More than 25 kg (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material in a motor vehicle, rail car, or freight container;

(3) More than one L (1.06 qt) per package of a material poisonous by inhalation that meets the criteria for Hazard Zone A;

(4) A shipment of a quantity of hazardous materials in a bulk packaging having a capacity equal to or greater than 13,248 L (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids;

(5) A shipment in other than a bulk packaging of 2,268 kg (5,000 pounds) gross weight or more of one class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required;

(6) A select agent or toxin regulated by the Centers for Disease Control and Prevention under 42 CFR 73;

(7) A quantity of hazardous material that requires placarding under the provisions of 49 CFR Subpart F.

b. There are two new training requirements. All shippers and carriers of hazardous materials must assure that their employee training includes a security awareness component. For persons required to have a security plan, this ruling also requires that plan specific training must be provided no later than 22 December 2003. This ETL 1110-1-502 requires applicable USACE offices to provide security training as soon as practicable following publication of this ETL.

c. Engineering and Construction personnel and appropriate operations personnel should review the regulatory requirements published at 68 Federal Register 14510 on March 25, 2003.

(1) USACE Civil Works projects, as well as military and other governmental projects, where government staff prepare HAZMAT and transport HAZMAT in a government vehicle, are not subject to the DOT security planning requirements. However, USACE should be cognizant of the need for extra security precautions when storing and transporting HAZMAT and may feel it is prudent to assess additional security requirements and possibly develop a security plan.

(2) Where a USACE operations, engineering, and/or construction office enters into a contract to transport HAZMAT or a prime contractor hires a subcontractor to transport HAZMAT, the USACE should ensure that the contract requires the contractor and all subcontractors to comply with the Federal HAZMAT regulations of 49 CFR Subchapter C. It is recommended that the new requirements of 49 CFR 172, Subpart I for security plans, and 49 CFR 172.704 for security training be the subject of inquiry to the contractors regarding their compliance until these regulatory requirements become standard practice. In addition, standard security responsibility clauses within contracts that involve on-site HAZMAT work should place the responsibility to provide on-site security on the contractor.

(3) As USACE contractors and subcontractors are transporting the HAZMAT in commerce, these entities are subject, where applicable, to the Security Plan development and training requirements. These requirements are industry-wide and specific to the entity that transports the HAZMAT. The plans are specific to the HAZMAT to be shipped. As such, contractors must develop plans to fulfill the regulatory requirements for their clients and the specific types of HAZMAT they transport. USACE should not bear the cost for plan development or training. This is an inherent cost of doing business in the HAZMAT industry and is required by DOT regulation. USACE will impose a certification requirement for all USACE managed contractor shipments of HAZMAT. The procedures are described in paragraph d below.

(4) All USACE HAZMAT employees who are trained and certified under the DOT provisions of 49 CFR 172 Subpart H should receive security awareness training at their initial or next recurrent training. The USACE PROSPECT courses have incorporated this requirement. The USACE PROSPECT course control numbers for general awareness transportation courses included: 223, 429, 430, and 441. For persons required to prepare security plans, specific training on the provisions of the security plan must be given to the HAZMAT employees by December 22, 2003.

(5) In addition to the security measures provided by the onsite contractor, or when there is not a contractor responsible for onsite security (Civil Works operations), the onsite USACE office should assess the security vulnerability of the site and the risk that the specific HAZMAT poses onsite prior to physical transportation. Procedures outlined below will determine whether the USACE office should develop a security plan to address the security of the HAZMAT during pre-transportation phases when the HAZMAT is onsite. Security plans, where applicable, are required as soon as practicable following publication of this ETL 1110-1-502.

d. Procedure. The following procedure will be followed for USACE shipments of DOT regulated HAZMAT in accordance with 49 CFR 172, Subpart I.

(1) The USACE office should make a determination and assess the vulnerability of the site with respect to the HAZMAT expected to be offered for transport by the contractor. If the assessment reveals that the specific material poses insignificant risk during the pre-transportation handling on-site, this should be documented and all site employees involved in the pre-

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transportation of the specific HAZMAT should be trained on this matter accordingly. The training should be documented.

(2) If it is determined by the USACE office that the specific HAZMAT presents a security risk during the pre-transportation phase, a site-specific security plan should be developed by the USACE office as an offeror of the specific HAZMAT. Appendix B is a security plan template. USACE offices should modify, add to, and delete from this template as appropriate. In addition, the USACE office should require that onsite contractors provide certification to the government that their staffs involved in pre-transportation activities for the specific HAZMAT meet the security provisions outlined by the contractor's security plan. Certification language is as follows: "I hereby certify that those persons employed by (name of contractor) have had background checks performed and that they do not pose a security risk in the pre-transportation related activities with respect to the covered HAZMAT. We have a security plan in place that addresses these matters as per the requirements of 49 CFR 172, Subpart I." USACE offices should make sure that the contract clearly indicates, through the appropriate Federal Acquisition Regulations clauses, that the prime contractor is responsible for on-site security.

(3) In addition, the contract will clearly require full compliance with DOT regulations, 49 CFR, Subchapter C.

(4) With each shipment of HAZMAT required to have a security plan for purposes of transportation, the USACE representative responsible for signing the shipping documents, will require the initial transporter to sign a certification statement. This certification will be placed in the project files in association with the shipping document. Subsequent shipments of the same hazard class of materials transported by the same transporter need not provide additional certifications. The certification will be typed on a separate page and read as follows: "I hereby certify that (name of transportation company) has a Security Plan in place which meets the requirements of 49 CFR 172 Subpart I for the hazardous materials described in the attached shipping papers." This certification will be signed by the initial transporter and dated.

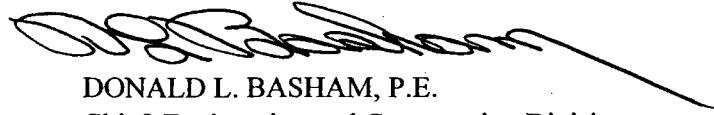
(5) All certifications will be placed in the project files with the shipping documents, and retained for at least the period required for the shipping papers.

e. Additional Information. Attached, as Appendix A, is an HTRW Center of Expertise Information Fact Sheet regarding security requirements for offerors and transporters of hazardous materials. The fact sheet lists the seven hazardous materials that will require a security plan. It is also available on the web at <http://www.environmental.usace.army.mil/info/technical/comply/complguide/complyfs/complyfs.html>. Appendix B, a template security plan for USACE as an offeror is also attached. DoD Instruction 4500.9-R, chapter 205, paragraph X can be viewed at <http://www.transcom.mil/j5/pt/dtr.html>. Questions concerning the specifics of the technical requirements can be directed to staff at the HTRW CX at 402-697-2562, 2560, 2634.

6. Actions Required. See paragraphs 5a, 5b, 5c, and 5d above.

FOR THE DIRECTOR OF CIVIL WORKS:

2 Appendices  
App A – Fact Sheet  
App B – Security Plan Template

A handwritten signature in black ink, appearing to read 'Donald L. Basham', with a long, sweeping horizontal line extending to the right.

DONALD L. BASHAM, P.E.  
Chief, Engineering and Construction Division  
Directorate of Civil Works